

§ 1207.310

§ 1207.310 Fiscal period and marketing year.

Fiscal period and *marketing year* mean the 12-month period from July 1 through June 30 of the following year or such other period which may be approved by the Secretary.

§ 1207.311 Programs and projects.

Programs and *projects* mean those research, development, advertising or promotion programs or projects developed by the Board pursuant to § 1207.335.

§ 1207.312 Importer.

Importer means any person who imports tablestock, frozen or processed potatoes for ultimate consumption by humans, or seed potatoes into the United States.

[56 FR 40229, Aug. 14, 1991]

§ 1207.313 Customs Service.

Customs Service means the United States Customs Service of the United States Department of the Treasury.

[56 FR 40229, Aug. 14, 1991]

NATIONAL POTATO PROMOTION BOARD

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board", composed of producers, importers, and a public member appointed by the Secretary. Producer members shall be appointed from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322. Importer members shall be appointed from nominations submitted by importers pursuant to § 1207.322. The public member shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary, and shall be appointed by the Secretary.

(b) Producer membership upon the Board shall be determined on the basis of the potato production reported in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. Unless the Secretary, upon recommendation of the Board, de-

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termines an alternate basis, for each five million hundredweight of such production, or major fraction thereof, produced within each State, such State shall be entitled to one member. However, each State shall initially be entitled to at least one member.

(c) The number of importer member positions on the Board shall be based on the hundredweights of potatoes, potato products equivalent to fresh potatoes, and seed potatoes imported into the United States but shall not exceed five importer members. Unless the Secretary, upon recommendation of the Board, determines an alternate basis, there shall be one importer member position for each 5 million hundredweight, or major fraction thereof, of potatoes, potato product equivalents, and seed potatoes imported into the United States.

(d) Any State in which the potato producers fail to respond to an officially called nomination meeting may be combined with an adjacent State for the purpose of representation on the Board, in which case the Board's producer member selected by the Secretary will represent both States, but such member's voting power under § 1207.325 shall not be increased.

(e) The Secretary, upon recommendation of the Board, may establish, through rule making procedure, districts or groups of States in order to change the representation requirements for membership on the Board. In such event the voting power of members under § 1207.325 would be based upon the total production within the new district or group of States.

(f) Should the Board fail to nominate a public member, the Secretary may appoint such member.

[37 FR 5008, Mar. 9, 1972, as amended at 49 FR 20806, May 17, 1984; 49 FR 31390, Aug. 7, 1984; 56 FR 40229, Aug. 14, 1991]

§ 1207.321 Term of office.

(a) The term of office of Board members shall be 3 years, beginning July 1, or such other beginning date as may be approved pursuant to regulations.

(b) The terms of office of the Board's producer members shall be so determined that approximately one-third of the terms will expire each year. Importer and public member terms shall

run concurrently. All members serving on the Board on the effective date of this amendment to the Plan shall continue serving the term to which they were appointed.

(c) Board members shall serve during the term of office for which they are selected and have qualified, and until their successors are selected and have qualified.

(d) No member shall serve for more than two full successive terms of office.

[37 FR 5008, Mar. 9, 1972, as amended at 56 FR 40229, Aug. 14, 1991]

§ 1207.322 Nominations and appointment.

The Secretary shall select the producer, importer, and public members of the Board from nominations which may be made in the following manner.

(a) A meeting or meetings of producers shall be held in each State to nominate producer members for the Board. For nominations to the initial Board the meetings shall be announced by the U.S. Department of Agriculture. The Department may call upon other organizations to assist in conducting the meetings such as State and national organizations of potato producers. Such nomination meetings shall be held not later than 60 days after the issuance of this subpart. Any organization designated to hold such nomination meetings shall give adequate notice of such meetings to the potato producers affected; also to the Secretary so that a representative of the Secretary, if available, may conduct such meetings or act as secretary of such nomination meetings.

(b) After the establishment of the initial Board, the nominations for subsequent Board producer members shall be made by producers at meetings in the producing sections or States. The Board shall hold such meetings, or cause them to be held, in accordance with rules established pursuant to recommendation of the Board.

(c) Only producers may participate in designating producer nominees. Each producer is entitled to one vote only on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives for each position for which nominations are being held. If a producer is

engaged in producing potatoes in more than one State, he shall elect the State in which he shall vote. In no event shall he vote in nominations in more than one meeting.

(d) The importer members shall be nominated by importers of potatoes, potato products and/or seed potatoes. The number of importer members on the Board shall be announced by the Secretary and shall not exceed five members. The Board may call upon organizations of potato, potato products and/or seed potato importers to assist in nominating importers for membership on the Board. If such organizations fail to submit nominees or are determined by the Board to not adequately represent importers, then the Board may conduct meetings of importers to nominate eligible importers for Board member positions. In determining if importer organizations adequately represent importers, the Board shall consider:

(1) How many importers belong to the association;

(2) What percentage of the total number of importers is represented by the association;

(3) Is the association representative of the potato, potato product, and seed potato import industry;

(4) Does the association speak for potato, potato product, and seed potato importers; and

(5) Other relevant information as may be warranted.

(e) The public member shall be nominated by the producer and importer members of the Board. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, stockholder, officer or employee of any firm so engaged. The Board shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and the Secretary approves.

[37 FR 5008, Mar. 9, 1972, as amended at 49 FR 20806, May 17, 1984; 56 FR 40229, Aug. 14, 1991]

EFFECTIVE DATE NOTE: At 62 FR 46179, Sept. 2, 1997, in § 1207.322, paragraphs (a) and (d)(1) through (d)(5); in paragraph (b), the words "at meetings" in the first sentence and the entire last sentence; in paragraph